

#### § 24.04

#### 40 CFR Ch. I (7–1–04 Edition)

initial orders, final orders, decisions, responses, memoranda, and documents regarding the order and to maintain the official record and docket.

(b) On or before the date the initial order is served on respondent the EPA office issuing the order shall deliver to the Clerk (a copy of) the administrative record supporting the findings of fact, determinations of law, and relief sought in the initial administrative order. This record shall include all relevant documents and oral information (which has been reduced to writing), which the Agency considered in the process of developing and issuing the order, exclusive of privileged internal communications. The administrative record delivered to the Clerk must have an index and be available for review in the appropriate Agency Regional or Headquarters office during normal business hours after the order is issued.

#### § 24.04 Filing and service of orders, decisions, and documents.

(a) *Filing of orders, decisions, and documents.* The original and one copy of the initial administrative order, the recommended decision of the Presiding Officer, the final decision and the final administrative order, and one copy of the administrative record and an index thereto must be filed with the Clerk designated for 3008(h) or 9003(h) orders. In addition, all memoranda and documents submitted in the proceeding shall be filed with the clerk.

(b) *Service of orders, decisions, and rulings.* The Clerk (or in the case of the initial administrative order, any other designated EPA employee) shall arrange for the effectuation of service of the initial administrative order, the recommended decision of the Presiding Officer, the final decision, and final administrative order. Service of a copy of the initial administrative order together with a copy of these procedures, the recommended decision of the Presiding Officer, the final decision, or a final administrative order, shall be made personally or by certified mail, return receipt requested or, if personal service cannot be effectuated or certified mail is returned refused or unsigned, by regular mail, on the respondent or his representative. The

Clerk shall serve other documents from the Presiding Officer by regular mail.

(c) *Service of documents filed by the parties.* Service of all documents, filed by the parties, shall be made by the parties or their representatives on other parties or their representatives and may be regular mail, with the original filed with the Clerk. The original of any pleading, letter, or other document (other than exhibits) shall be signed by the party filing or by his counsel or other representative. The signature constitutes a representation by the signer that he has read the pleading, letter, or other document, that to the best of his knowledge, information, and belief, the statements made therein are true, and that it is not interposed for delay.

(d) *Service in general.* Service of orders, decisions, rulings, or documents by either the Clerk or the parties shall, in the case of a domestic or foreign corporation, a partnership, or other unincorporated association, which is subject to suit under a common name, be made, as prescribed in § 24.04 (b) and (c), upon an officer, partner, managing or general agent, or any person authorized by appointment or by Federal or State law to receive service of process.

(e) *Effective date of service.* Service of the initial administrative order and final administrative order is complete upon receipt by respondent (or the respondent's agent, attorney, representative or other person employed by respondent and receiving such service), personally or by certified mail, or upon mailing by regular mail, if personal service or service by certified mail cannot be accomplished, in accordance with § 24.04(b). Service of all other pleadings and documents is complete upon mailing, except as provided in §§ 24.10(b) and 24.14(e).

[53 FR 12263, Apr. 13, 1988, as amended at 56 FR 49380, Sept. 27, 1991]

#### § 24.05 Response to the initial order; request for hearing.

(a) The initial administrative order becomes a final administrative order thirty (30) days after service of the order, unless the respondent files with the Clerk within thirty (30) days after service of the order, a response to the initial order and requests a hearing.